

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ASCION, LLC and MARTIN RAWLS-
MEEHAN,

Plaintiffs,

v.

RUOEY LUNG ENTERPRISE CORP.
and LUNG-TAN SHIH,

Defendants.

Civil Action No. 09-11550-GAO

(Consolidated with Civil Action
No. 09-10293-WGY)

Leave to File Granted on January 5,
2011

RUOEY LUNG ENTERPRISE CORP.,
Plaintiff,

v.

TEMPUR-PEDIC, INTERNATIONAL INC.;
TEMPUR-PEDIC SALES, INC.; TEMPUR-
PEDIC NORTH AMERICA LLC; OPTIMA
HEALTHCARE, INC.; and APEX HEALTH
CARE MANUFACTURING, INC.,

Defendants.

**AFFIDAVIT OF LUNG TAN SHIH IN SUPPORT OF OPPOSITION TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT
AND INVALIDITY**

I, Lung-Tan Shih, hereby declare as follows:

1. The following statements are based upon my personal knowledge. If called as a witness, I could testify completely thereto.
2. I am the owner of Ruoeey Lung Enterprise Corp. (“Ruoeey Lung”).
3. I am the inventor of the patent-in-suit, U.S. Patent No. 7,448,100 (the “’100 patent”).
Ruoeey Lung is the assignee of the ’100 patent.
4. Martin Rawls-Meehan (“Rawls-Meehan”), the managing member of Ascion, LLC, never disclosed any idea for the invention underlying the ’100 patent to me. The invention underlying the ’100 patent was independently developed by me.
5. Ascion started buying the bed frames covered by the ’100 Patent in January 2006 and stopped buying after I notified Rawls-Meehan about the ’100 patent in the Fall of 2008. I believe Ruoeey Lung’s workmanship is satisfactory and I am not aware of Ascion’s losing customers as far as the bed frames covered by the ’100 Patent is concerned.
6. No bed frames covered by the ’100 patent were made, used, sold or offered for sale by Ascion, or by any other person or company prior to the Commission Agreement, which was entered on or about November 22, 2005. The bed frames sold by or through Ascion prior to November 22, 2005 are not covered by any claims of the ’100 patent.

I swear under the penalty of perjury under the laws of the United States of America that the foregoing is true and accurate.

Executed this 19th day of January, 2011, in DONG GUAN

LUNG-TAN SHIH

Lung-Tan Shih

Certificate of Service

I, Richard F. Cauley, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on January 19, 2011.

/s/ Richard F. Cauley

Richard F. Cauley